

**CITY OF MILWAUKIE
CITY COUNCIL MEETING
SEPTEMBER 5, 1995**

The one thousand seven hundred and twenty-sixth meeting of the Milwaukie City Council was called to order by Mayor Lomnicki 7:00 p.m. in the Council Chambers at Milwaukie City Hall. The following Councilors were present:

Craig Lomnicki,
Mayor
Rick Farley

Jean Schreiber
Rob Kappa
Don Trotter

Also present:

Dan Bartlett,
City Manager
Pam Beery,
City Attorney
Angus Anderson,
Finance Director
Dan Olsen,
Fire Chief

Maggie Collins,
Community Development Director
Greg Drechsler,
Acting Public Works Director
Jim Crumley,
Senior Planner
Pat DuVal,
Recorder/Secretary

PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS

Recognition of South Metro Fire Prevention Office

Dan Olsen, Fire Chief, presented the staff report in which he recognized the South Metro Fire Marshal's Office for its fire prevention contributions to the community.

It was moved by Councilmember Kappa and seconded by Councilmember Schreiber to adopt the Resolution recognizing the South Metro Fire Prevention Office. Motion passed unanimously.

RESOLUTION 33-1995:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, RECOGNIZING THE OUTSTANDING PERFORMANCE OF THE SOUTH METRO FIRE MARSHAL'S OFFICE DURING ITS FIRST FOUR YEARS OF OPERATION.

Olsen introduced Dave Olson, Fire Marshal, who accepted a plaque from Mayor Lomnicki. Martin Goughnor, Chief Training Officer, and Jesse Villareal were given certificates for their outstanding performance and leadership in the community.

Neighbors Make the Difference Day -- Proclamation

Mayor Lomnicki read a Proclamation naming Wednesday, September 20, 1995, as *Neighbors Make the Difference Day* in the City of Milwaukie.

Light Rail Funding Bill

Mayor Lomnicki announced that Governor Kitzhaber signed SB 1156 in a formal ceremony at Milwaukie City Hall earlier that day.

School Trip Safety Plan Update

Drechsler discussed the action plan brought forward by the Ardenwald Pedestrian Task Force and adopted by the City Council. He announced that installation and testing of the flashing yellow signal was complete, and it would be ready for the first day of school on Wednesday.

Councilmember Kappa asked if the timer was set from Ardenwald School. **Drechsler** said it was operated by computer from the City of Portland. He added that Clackamas County would maintain the signal.

Councilmember Farley asked if the signal operated 24-hours a day. **Drechsler** said the signal timer is set for operation only during school hours.

Citizen Handbook

Mayor Lomnicki announced that the *Citizen Handbook* was available to the public at all City facilities.

AUDIENCE PARTICIPATION

Jim Backenstos, President, Concerned Citizens of the City of Milwaukie, said he believed Milwaukie's police and fire services were excellent. He added that morale has never been higher. Citizens and elected officials need to work hand-in-hand to make the City a better place to live. He discussed the City Council Goals, the needs that should be served, and the examination of City finances. He said building codes should be upgraded and soil surveys completed relevant to construction. He added that the City should not be too quick in renovating the waterfront before determining the direction of local, county, and federal governments. He said he felt, to protect the

environment, light rail should take precedence over other projects, but he urged that City officials take their time and do things correctly. He discussed noxious weed and blackberry bushes in the Brookside area that he believed the property owner should clear; however, the Code Enforcement Officer indicated there was a concern about erosion. He recommended that Council work on one or two goals at a time and not try to do too many things at one time. He added that the Public Works Department has done the best it can with City streets. Most City Departments have been completely cooperative.

PUBLIC HEARING

Adopt 1995 - 1997 City Council Goals

Mayor Lomnicki called the Public Hearing on adoption of the 1995 - 1997 City Council Goals to order at 7:18 p.m.

The purpose of the hearing was to consider public comment on the matter. He reviewed the conduct of the hearing. He added that Mr. Backenstos's comments would be part of the record.

Mayor Lomnicki discussed the goal development process that included taking comments from Board and Commission members and Neighborhood Association representatives. City Council wanted to make sure that the cycle would be complete by allowing this time for public comment on the proposed Goals. He read the Draft 1995 - 1997 City Council Goals into the record: implement Community Oriented Police Services (COPS) Plan, with emphasis on drug-related crimes, bias crimes and vehicle speeding; encourage citizens to be more involved in all aspects of the City; develop expanded City Center Master Plan, including development of the Riverfront Master Plan and implementation strategy; develop an implementation plan with funding strategy options for the Transportation System Plan, the storm drainage master plan, and street maintenance improvements; continued involvement with regional transportation plans, including light rail; develop an implementation plan for City service area expansion; and develop a long-term financial plan for the City.

Correspondence: A letter was received from Julie Wisner with concerns about including traffic calming devices throughout the City in the upcoming budget process.

Mayor Lomnicki commented that this was a Council concern and would be considered as an element of the Transportation System Plan.

Audience Participation: None.

Staff Comments: None.

Questions of Clarification: None.

Mayor Lomnicki closed the public testimony portion of the hearing on the 1995 - 1997 City Council Goals at 7:23 p.m.

Discussion: **Councilmember Kappa** said there was a lot of input and discussion put into these draft Goals, and he was satisfied with them as presented. He thanked Councilmember Farley for his suggestion of involving citizens in Goal development.

Councilmember Farley said he believed City residents want to see these Goals fulfilled. He commented that traffic calming was a major issue in Milwaukie.

Decision: **It was moved by Councilmember Schreiber and seconded by Councilmember Kappa to adopt the 1995 - 1997 City Council Goals.**

Councilmember Trotter said these Goals are very specific, action oriented, and realistic with a measurable outcome during the two years of their enactment. The Goals support the City's Mission Statement.

Councilmember Kappa added that the action plan will be adopted at a later date.

Mayor Lomnicki commented that there are many items at the top of the list because of regional issues.

Councilmember Schreiber discussed staff assignments and added that projects are moving ahead rapidly.

The motion to adopt the 1995 - 1997 City Council Goals passed unanimously.

Appeal of Administrative Approval of MLP-95-02

Mayor Lomnicki called the Public Hearing on the minor land partition appeal to order at 7:32 p.m.

Mayor Lomnicki said the purpose of the hearing was to consider the appeal of an administrative approval of MLP-95-02. The action allowed the creation of two parcels at 5603 SE Harlene by approving a minor land partition. He reviewed the order of business in conducting the hearing.

Mayor Lomnicki said the applicant had the burden of proving that the minor land partition was consistent with the City of Milwaukie's Zoning Ordinance and Comprehensive Plan. The criteria to be addressed were in Section 17.32 of the Subdivision Ordinance. Any interested party may appeal the decision of the Council to the State Land Use Board of Appeals according to the rules adopted by the Board. He reviewed the conduct of the hearing.

Conflicts of Interest: **Councilmembers Trotter and Kappa** announced that they had visited the site but did not notice anything contrary to the information in the staff report.

Jurisdictional Issues: There were no objections to the Council's jurisdiction to consider the proposal.

Staff Report: **Jim Crumley**, Senior Planner, presented the staff report. Staff recommended that the City Council deny the appeal and uphold the Planning Commission and Community Development Director's decision to approve a minor land partition, MLP-95-02. The proposed action would divide one parcel totaling 15,650 square feet into two parcels. Each of the proposed parcels would meet the 7,000 square foot minimum of the R-7 zone. Staff requests approval of the application based on the seven findings in the June 1, 1995, staff report and finding number eight on page one of the memo to City Council dated September 5, 1995. This additional finding determined that the Comprehensive Plan is "aspirational in nature and not strictly applicable to this minor land partition because the Zoning Ordinance contains clear and objective criteria upon which a decision can be made." Land partitioning is meant to standardize the division of land. The Zoning Ordinance findings are the design criteria of the R-7 Zone which meet these minimum standards: meets or exceeds the lot depth requirement of 80 feet; lot width of 60 feet; and total area of 7,000 square feet. The proposed partition also includes the minimum access width of 15 feet. Staff finds that the application conforms to the requirements of the R-7 Zone and recommends acceptance based on the Residential Land Use and Housing Elements of the Comprehensive Plan.

Councilmember Kappa said in the report to the Planning Commission, it was mentioned that there were other flaglots in the area, and he asked Crumley to point them out. He commented that he did not see any on the map on page 34 of the packet. **Crumley** referred to the map on page 19 and stated that flaglots were located on Stanley, directly east of Harlene; on the east end of Park Avenue; and on the south side of Monroe Street. These were within a 250-foot radius of the site of the proposed partition.

Councilmember Farley asked if these flaglots were actually within 250 feet of the site. **Crumley** said he believed that was the discussion. **Councilmember Farley** asked if there were any flaglots located in the same block. **Crumley** said there were no other flaglots in the block under discussion. He added that he believed the other flaglots were within a 500-foot radius.

Correspondence: No additional.

Applicant's Presentation: **Renee Pearson**, property owner, said she was available to respond to questions. She said it was her intent to improve both the property and the neighborhood.

Councilmember Trotter referred to the conceptual design of the rear flaglot on page 20 of the Council packet and asked if there could be some revisions. **Pearson** said she felt that some changes could be made, and she was willing to work with the Commission and the neighborhood.

Councilmember Kappa asked what changes were feasible. **Pearson** said she believed there was a problem with the trees, and she would work within these limitations. The house would be arranged for maximum privacy, particularly for the front lot. She added that construction of a privacy fence was planned. Other items will be open for discussion.

Testimony in Support: **Ed Martin**, E&S Construction, 12764 SE Nixon, spoke in favor of the applicant. He discussed the number of flaglots in the area. If the zoning requirements for an R-7 lot are met, there should be no reason for the application not to be approved. He felt there was a pattern developing that is taking up a lot of Community Development Department staff, Planning Commission, and City Council time. He suggested that rezoning might eliminate some of the current problems.

Opponent's Presentation: **Tracy Cook**, 5651 SE Harlene, said her lot is adjacent to the subject parcel on the east. She added that she was attending Land Use Training sessions. She believed that all residents on Harlene should benefit from the partitioning of this land. She consulted a real estate agent who indicated her property value would probably decrease by \$5,000 - \$10,000. The size of the back yards is what makes the neighborhood special. She added that there was also a day care facility near the site. The proposed partition does not enhance the neighborhood. The size of the lots is unique, and the neighborhood has pride in its identity.

Cook discussed the criteria that included the responsibility for providing services that included an adequate water supply. She commented that water pressure in the area was very low. Neighborhoods such as the Harlene area are a commodity and should be protected and preserved as a natural resource in an urban area. The goal is to attract long-term residents and maintain livability. She commented that she resented that this site was being compared to a site on Woodhaven. Actions of this type promote piecemeal development and is not an orderly and efficient transition from urban to rural setting. Overlaying an area with an R-7 designation is not orderly urban development. The policies state that there should be a net benefit for all residents, that adequate housing supply is ensured, and housing investments are maintained. **Cook** stated that since the proposed partition would destroy the uniqueness and openness of the neighborhood, approval of the application would be in conflict with State guidelines and the City's Comprehensive Plan.

Cook discussed the width of the access to the second property, which was 12 instead of 15 feet. The reason given for the access variance was to preserve the mature trees. She understood from a knowledgeable source that the two ash trees would be dead within two years of paving the proposed driveway. She discussed the notification procedure and that no legible sign was posted on the property. Citizen involvement is not possible if proper notification is lacking.

Councilmember Trotter said he heard Cook discuss the application as it applies to the Comprehensive Plan. He asked how the application applied to the Zoning Ordinance. **Cook** said the application followed the Zoning Ordinance to the letter, but she added that she did not believe these should be the only criteria to be applied.

Councilmember Kappa asked for clarification of her references to livability. **Cook** said a majority of her neighbors live on Harlene because of the lots and the large backyards. It has a rural atmosphere while being close to an urban center and activities.

Councilmember Farley asked for the location of the day care facility. **Cook** said the play center of the facility abuts hers to the west.

Randy Betts, 5527 SE Harlene, discussed the livability situations. He said he purchased the property from his parents specifically for the type of lot. He has four children who need a lot of space. He observed that cash drives the investment when people purchase property. This partition would move people into his backyard. He said he chose to move to this property, and he thought approving the partition would be wrong.

Michelle Greeley-Roberts, 2924 SE Malcolm, said she found concern throughout the community on similar issues. There are no quick solutions. The neighborhood at issue has been untouched and its integrity established. She urged that the flaglot issues be dealt with through the Neighborhood District Association Land Use Boards.

Staff Comments: None.

Questions of Clarification: **Councilmember Trotter** asked staff to clarify two of Cook's issues: the notice sign not posted on the subject property and the comments on the administrative variance. **Crumley** said he personally posted the sign on July 1, but an unknown party had removed it by July 12. The State requires written notice of a land use issue, but a sign on the property is not mandatory. He said there was no access variance granted. A 12-foot, not a 15-foot, pavement is required. The 17-foot access strip would allow the developer to maneuver improvements to avoid the trees when possible.

Mayor Lomnicki clarified that no variances had either been requested or granted. **Crumley** said this was correct.

Applicant's Rebuttal: **Pearson** commented that a trained real estate appraiser could give more accurate advice regarding the impact a flaglot would have on adjacent property values. She added that a home with a driveway and turnaround would probably decrease the amount of water used. She said, as the applicant, she pursued the application with the zoning criteria before her, and she felt she met these sufficiently.

Mayor Lomnicki closed the public testimony portion of the hearing on the appeal of MLP-95-02 at 8:12 p.m.

Discussion: **Councilmember Trotter** said he felt that the fact that people attended the Public Hearing indicated that the written and published notice was adequate. He pointed out that much of the testimony related to the Comprehensive Plan. He asked the appellant one question based on the Zoning Ordinance which set the criteria for the appropriateness of this minor partition. Cook stated that the criteria were met and coincided with the findings of the Planning Commission and the Community Development Director. The Comprehensive Plan is conceptual and lists goals and policies on the development of the City on a land use basis. When the Zoning Ordinance and Subdivision Ordinance apply to the property, these are the prime criteria and determine if the land use action is appropriate. He said he was sympathetic to the comments on livability and neighborhood character, but decisions must be made based on laws that are on the books at this time. He said he did have a concern about the configuration of the lot with a five-foot setback adjacent to the rear property line. The setbacks provide a separation between living units. He believed it was appropriate that rear yards face rear yards for a 40-foot separation and requested that the applicant take this into consideration. He said he would deny appeal.

Councilmember Farley said he had concerns about the proposed lot size not being within the boundaries of an R-7 Zone stated on page 25 of the packet material.

Councilmember Schreiber commented that this letter was from a well-intentioned citizen. **Crumley** said the proposal meets width and depth standards for an R-7 zone, and each lot exceeds the 7,000 square foot minimum.

Councilmember Kappa said the Comprehensive Plan is a conceptual idea, and the Ordinances implement the Plan. It is true that the developer is meeting all of these guidelines; however, he felt the proposal did not meet the spirit of the neighborhood. He said he was concerned with the rights of the people who already live there and the Ordinances meeting the spirit of the Comprehensive Plan. The City has a responsibility to both the developer and the homeowners. He said he believed the design element was missing. He said he would not vote in support of the application.

Councilmember Schreiber said the subject at hand is whether the application meets the criteria currently on the books. The City is moving toward a more urban housing situation, and the comments about the transition between urban and rural were put in place a number of years ago. She said she would make her decision based upon what is on the books right now.

Mayor Lomnicki said he agreed with Councilors Trotter and Schreiber. He stressed that the Comprehensive Plan is the spirit of the community's aspirations. In the process of drafting the Zoning Ordinance, Council and staff work within the framework of the Comprehensive Plan. If there is a problem about the Ordinances meeting the spirit of the Plan, then they need to be looked at in the future. We need to consider what is on the books right now in order to be consistent. The Minor Land Partition meets the criteria of the Zoning Ordinance and Subdivision Ordinance.

Councilmember Kappa responded to Councilmember Schreiber's comments. He was concerned with where the population and the development should go. He felt the problem was that the neighborhood spirit would no longer exist. He believed the Zoning Ordinance needed to be reviewed. He discussed the possibility of alleys for access rather than sharing driveways.

Councilmember Farley agreed with Councilmember Kappa. We need to have an idea of direction and cannot go strictly by laws. He added it would be all right if there were already a flaglot in the block.

Councilmember Schreiber said she understood the principle of wanting space, but she understood the principle of those developing the Comprehensive Plan and Zoning Ordinance for the future.

Councilmember Trotter said the guidelines are in the Comprehensive Plan, and the criteria have been met. The application meets the Comprehensive Plan and Zoning Ordinance density for R-7. It neither exceeds zoning or density. He discussed Objective 5, Housing Choice, and Policy 1, regarding infill. The City seeks to an adequate and diverse range of housing types to utilize housing resources. An attractive living environment in an established neighborhood may include lot size reduction. He pointed out that the Comprehensive Plan was a guideline.

Councilmember Kappa said he was aware of the Comprehensive Plan, Zoning Ordinance, and Subdivision Ordinance. He cautioned that flaglot appeals will continue and urged that a process begin to review the Ordinances.

Decision: It was moved by Councilmember Trotter and seconded by Councilmember Schreiber to deny the appeal and uphold the decision of the Planning Commission and Community Development Director based on findings one through seven on page six of the June 1, 1995, staff report and finding eight on page one of the September 5, 1995, staff report. Motion passed 3 - 2 with the following vote: Mayor Lomnicki, Councilmember Schreiber, and Councilmember Trotter aye; Councilmember Farley and Councilmember Kappa nay; and no abstentions.

Willamette River Corridor Coordination Plan (WRCCP)

Mayor Lomnicki called the Public Hearing on the Willamette River Corridor Coordination Plan to order at 8:43 p.m.

Mayor Lomnicki said the purpose of the hearing was to consider public comment on the Council's support and acknowledgment of the Plan. He reviewed the conduct of the hearing.

Staff Report: **Jim Crumley**, Senior Planner, presented the staff report in which staff requested adoption of a Resolution supporting and acknowledging the Willamette River Corridor Coordination Plan (WRCCP). Council held a work session on this item on July 18, 1995. This Resolution is a support and endorsement of the project and signals the other stakeholders that the City of Milwaukie endorses the plan as a useful tool.

Bartlett indicated there was a relationship to Goal Five and pending changes in the State. **Crumley** said these changes would be taking place in the next several months; however, a DLCD analyst said there was no impact expected to this document.

Councilmember Farley asked whether the enlarged urban growth boundary would impact the document in any way. **Crumley** said the only possible impact would be to Elk Rock Island, which is currently property of the City of Portland.

Correspondence: None.

Audience Participation: None

Questions of Clarification: None.

Mayor Lomnicki closed the public testimony portion of the hearing on the Willamette River Corridor Coordination Plan at 8:48 p.m.

Discussion: **Councilmember Trotter** said he participated on the multi-jurisdictional committee that worked on this document. He said he believed it was a valuable resource to the City. He felt the Resolution was a good closure with the recommendation that it be a resource document for future planning.

Councilmember Kappa said he hoped the document would be used for riverfront planning. He added that he was disappointed that it had not gone further than it did.

Decision: It was moved by **Councilmember Kappa** and seconded by **Councilmember Trotter** to adopt the Resolution supporting and acknowledging the Willamette River Corridor Coordination Plan. Motion passed unanimously.

RESOLUTION NO. 34-1995:

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF MILWAUKIE, OREGON, SUPPORTING AND
ACKNOWLEDGING THE WILLAMETTE RIVER
CORRIDOR COORDINATION PLAN, SEPTEMBER 1994.**

OTHER BUSINESS

Contract Award for 40th & Harvey Concrete Reservoir Liner

Greg Drechsler, Acting Public Works Director, presented the staff report. Council was requested to authorize the City Manager to award a contract for the installation of a liner for the concrete water storage reservoir at 40th & Harvey to Western Tank & Pipe, the low bidder, in the amount of \$77,000. He added that this amount was very near the engineer's cost estimate.

Councilmember Farley asked if this liner would stop the constant flow of water down Monroe. **Drechsler** said it would. **Councilmember Farley** asked the length of the guarantee. **Drechsler** said there was a one-year warranty on the contract with 10 - 15 years on the manufacturer's material and workmanship.

Councilmember Kappa asked if there would be any taste or discoloration of water. **Drechsler** said this liner is used frequently and is approved by the APWA.

It was moved by **Councilmember Kappa** and seconded by **Councilmember Farley** to authorize the City Manager to execute a contract with Western Tank & Pipe in the amount of \$77,000 for the installation of a liner for the concrete storage reservoir at 40th & Harvey. Motion passed unanimously.

Purchase Order Amendment: #20070 to Murray, Smith & Associates

Drechsler presented the staff report in which City Council was requested to consider authorizing the City Manager to amend purchase order #20070 to Murray, Smith & Associates by increasing the original amount by \$4,000. The new total amount would be \$19,000. There were two similar work items at the Stanley Reservoir, and staff felt it would be most efficient to combine the two on one purchase order.

It was moved by Councilmember Trotter and seconded by Councilmember Kappa to authorize the City Manager to amend purchase order #20070 to Murray, Smith & Associates by increasing the original amount by \$4,000 for a new total amount of \$19,000. Motion passed unanimously.

Contract Amendment for Campbell Storm Line

Drechsler presented the staff report in which the City Council was requested to authorize the City Manager to amend the contract with Hubco Excavation, Inc., for the 1995 Campbell Storm Line Project to include an additional \$14,855 to replace 100 feet of concrete pipe. During installation of the line, the pipe going into Harrison was found to be failing. The department recommends this additional installation and to proceed with the contract. In order to do this work, two lanes of Harrison will need to be closed during installation.

Councilmember Farley suggested that re-routing traffic would be easier. **Drechsler** commented that closing two lanes would still allow one lane in each direction.

Councilmember Kappa asked if this would help eliminate some of the water flowing down Monroe. **Drechsler** said the reservoir liner should take care of this.

It was moved by Councilmember Kappa and seconded by Councilmember Trotter to authorize the City Manager to amend the contract with Hubco Excavation, Inc., for the 1995 Campbell Storm Line Project to include an additional \$14,855 to replace 100 feet of concrete pipe. Motion passed unanimously.

Contract Award for Municipal Judge Services

Angus Anderson, Finance Director, presented the staff report in which staff recommended that the contract for Municipal Judge Services be awarded to Ronald L. Gray. Gray has been the Municipal Judge since 1988; after last contract renewal, City Council directed staff to go out for proposals. Three attorneys responded to the RFQ prepared by staff, and two of them were interviewed. The contract was in the amount of \$1,050 per month, with a \$500 annual allowance for pro tem judge services. The term of the contract is three years with two annual renewal options.

Councilmember Farley asked if the Municipal Court made enough to pay for this person. **Anderson** said the Court has sufficient revenue for this service.

It was moved by Councilmember Kappa and seconded by Councilmember Trotter to award the contract for Municipal Judge Services to Ronald L. Gray in the amount of \$1,050 per month, with a \$500 annual allowance for the use of pro-tem judge services, for a term of three years with two annual renewal options.

Mayor Lomnicki explained that the City Council hires three City employees: the City Manager, City Attorney, and Municipal Court Judge.

Motion passed unanimously.

Amend Resolution Regarding Execution of Certain Contracts

Anderson presented the staff report in which the City Council was requested to adopt a Resolution amending Resolution 26-1995 which authorized the City Manager to execute Purchase Orders for services essential and required for normal City operations in FY 1995 - 1996. The amendment changed the authorization for computers and peripherals to Pacific Information Systems based on bid prices received.

Mayor Lomnicki asked if the equipment was the same or comparable to that of the previous vendor. **Anderson** said the amendment was based on the pricing for the same or comparable equipment and is compatible with what is already owned by the City.

Councilmember Farley asked about the amount of the sewage treatment fees to the City of Portland. **Anderson** said this fee was for the Johnson Creek Boulevard area.

It was moved by Councilmember Trotter and seconded by Councilmember Kappa to adopt the Resolution amending Resolution 26-1995 which authorized the City Manager to execute certain contracts to amend the authorization for computers and peripherals to Pacific Information Systems. Motion passed unanimously.

RESOLUTION NO. 35-1995:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING RESOLUTION 26-1995 WHICH AUTHORIZES THE CITY MANAGER TO EXECUTE CERTAIN CONTRACTS.

Intent to Refinance 800 MHz System

Anderson presented the staff report in which the City Council was requested to adopt a Resolution acknowledging the City's intent to reimburse for expenditures made to acquire an 800 MHz radio system. Without approval of this Resolution, the portion of any bonded debt paid to the City as reimbursement may be construed as taxable bonds by the Internal Revenue Service. During Budget deliberations, funding of the 800 MHz system was considered. This action would ensure the tax exempt nature of the bond. If this Resolution were not adopted, refunds to the City of Milwaukie from the County levy may not be tax exempt.

Councilmember Kappa said, if the County passes its measure, the Resolution must be in place so that reimbursements to the City will be tax exempt.

Councilmember Farley said he understood that the 800 MHz system in the City of Portland was having difficulties. **Anderson** was not familiar with the situation.

It was moved by Councilmember Kappa and seconded by Councilmember Trotter to adopt the Resolution authorizing issuance of reimbursement bonds. Motion passed unanimously.

RESOLUTION NO. 36-1995:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING ISSUANCE OF REIMBURSEMENT BONDS.

High Speed Rail Endorsement Request

Maggie Collins, Community Development Director, presented the staff report in which the City Council was requested to consider a letter endorsing high speed rail services from Eugene to Portland. The request was received from ODOT. No adverse impacts to the City would occur if there were an endorsement. High speed rail has been going through Milwaukie since November, and, if not funded, would cease to operate at its current level.

Councilmember Kappa asked if the City should have a policy that supports the project before writing the letter. **Collins** said both the City Vision and Transportation System Plan contain a similar reference.

Councilmember Kappa asked if the line was really high speed at this time. **Collins** said it was not yet a high speed line. Some funds have been spent to get the project underway, and the rest was used to improve the tracks and crossings.

Councilmember Kappa asked if high speed would be included in the light rail process. **Collins** said, the first issue would be safety. If high speed rail were subsidized, the southern suburban station would probably be located either in Oregon City or Milwaukie.

Mayor Lomnicki added that ODOT is seeking Petrol Grant funds for high speed rail. The grant program would help continue the service through next spring.

Councilmember Farley referred to page 21 of the staff report and asked what bus service had to do with the high speed rail project. **Collins** said bus service provided an alternative form of transportation.

Councilmember Kappa said this does not automatically mean there will be money given. **Collins** said if these funds are granted to ODOT, the program will be allowed to continue while other funding sources are sought.

It was moved by Councilmember Kappa and seconded by Councilmember Trotter to authorize the Mayor to sign a letter supporting ODOT's High Speed Rail -- Continued Operations Project.

Councilmember Trotter said he felt this was a great opportunity to continue the program while looking for other funding.

Motion passed unanimously.

Metro Region 2040 Plan

Collins presented the staff report in which the City Council was requested to adopt a Resolution supporting early implementation of the Metro Region 2040 Plan. The request came from Metro Executive Mike Burton resulting from his concern with protracted scheduling. She pointed out that the City of Milwaukie was designated as a regional center and that Clark County is now included in the forecasting. She added that the City of Milwaukie has done some very impressive projects in the past three years.

Councilmember Schreiber said as an MPAC member, she saw the need for immediate review because the population is increasing faster than anticipated. The process is there, and we need to understand and act upon it.

Councilmember Kappa said he understood that the population was coming, but he was concerned that action not be taken too quickly.

Councilmember Schreiber agreed with Councilmember Kappa and commented that the City of Milwaukie is well along in its planning process. We are being asked to accept the responsibility of stepping up the process and help people plan for their own futures.

Mayor Lomnicki said SB 2709 would open up the process to other criteria and the expansion of new development. What we do not want to happen is urban sprawl.

Councilmember Trotter said he thought this was a good example of local control. If we do not take this opportunity, the option may be taken away and mandated by the State Legislature.

Councilmember Schreiber added that the City would want flexibility within the plan for local options. If communities do not take the responsibility, there will be State mandates.

Councilmember Farley said he believed the Resolution should not be adopted without sufficient time to study it.

Councilmember Kappa asked if anything needed to be addressed prior to implementation.

Collins said this Resolution indicates the City's willingness to take responsibility and take a hand in its own share of growth management activities. It is consistent with City Council Goals adopted earlier in this meeting.

It was moved by Councilmember Kappa and seconded by Councilmember Schreiber to adopt the Resolution supporting early implementation of the Region 2040 Plan.

Councilmember Farley said he believed the Resolution was brought up too swiftly without a chance to study it.

Motion passed 4 - 1 with the following vote: Mayor Lomnicki, Councilmember Schreiber, Councilmember Kappa, and Councilmember Trotter aye; Councilmember Farley nay; and no abstentions.

RESOLUTION NO. 37-1995:

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF MILWAUKIE, OREGON, SUPPORTING EARLY
IMPLEMENTATION OF THE REGION 2040 PLAN.**

Intergovernmental Agreement with ODOT: Congestion Mitigation and Air Quality (CMAQ) -- Resolution

Bartlett presented the staff report in which the City Council was requested to adopt a Resolution authorizing the Mayor to sign a local agency agreement with the Oregon Department of Transportation. The grant would provide \$91,200 toward completion of the bikeway along the UP/SP property. The City's match from the Bike Path fund would be \$18,240. The bikeway would be from the jughandle to Jefferson Street and would be one of the first constructed in the area.

Councilmember Schreiber asked if the bike path would be similar to the one along I-205. **Bartlett** said it would be a standard state bikeway and would probably be more like to the one between Monmouth and Salem on 99W.

Councilmember Trotter asked when the project would be complete. **Bartlett** said the term of the project was ten years, but he suspected it would take less time.

Councilmember Trotter said he was concerned that the Riverfront Master Plan project was just beginning. If this structure were completed, it would be a pre-existing condition around which the plan must be developed. He also expressed concern that the City of Milwaukie would lose control of the project. **Bartlett** said in the agreement "agency" refers to the City of Milwaukie. He added that the UP/SP property was obtained for the bikeway. He said he saw no restraints.

Councilmember Schreiber commented that this must be considered as a continuation of a trail.

Councilmember Trotter said he was concerned the State might mandate some of the Master Plan. He asked if properties could be traded for the bikeway. He repeated that he was concerned that this might be an obstacle around which the Master Plan must be worked. **Bartlett** said the key would be how many properties to the east could be acquired. The regional concept was to preserve the UP/SP right-of-way for this purpose and go onto other properties. He said he was trying to maneuver in order to tie all of the pieces together.

Councilmember Kappa said he had similar concerns. He asked if the design process could become part of the agreement. **Bartlett** said the City of Milwaukie is required to have citizen input, technical and citizen advisory committees, and Public Hearings to develop an overall design in the City.

Councilmember Kappa said he wanted Section 1 of the Resolution to say "The City Council of the City of Milwaukie, hereby authorized the Mayor to enter into and execute on behalf of the City, Local Agency Agreement No. 13,192 attached as Exhibit A."

RESOLUTION NO. 38-1995:

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AND EXECUTE A LOCAL AGENCY AGREEMENT BETWEEN THE CITY OF MILWAUKIE AND THE OREGON DEPARTMENT OF TRANSPORTATION FOR THE PURPOSES OF THE ADMINISTRATION OF THE CONGESTION MITIGATION AND AIR QUALITY (CMAQ) PROJECT AGREEMENT NO. 13,192.

Intergovernmental Agreement with Metro: Local Share of Open Spaces Bond

Bartlett presented the staff report in which the City Council was requested to adopt a Resolution authorizing the Mayor to sign an intergovernmental agreement with Metro for the local share of the Open Spaces Bond. Metro is trying to move this through on a timeline and would like a response by September 15 in preparation for the bond sale. Various city attorneys are working together on similar agreements prior to signing.

He discussed the project list and the possible amendments to total \$394,020, which was Milwaukie's share. He suggested that City Council adopt the Resolution and direct staff to modify the project list to items 1 & 2.

Councilmember Schreiber asked if the City of Milwaukie wanted to recommend to the Parks District to look at item #3, Johnson Creek/Springwater Corridor. **Bartlett** said this could be done; it is not on the District's current project list.

Bartlett said the City of Milwaukie was anticipating more money, but Metro staff recalculated the allocation.

Councilmember Farley asked what purchasing Kellogg Lake property included. **Bartlett** said this was a subject for executive session.

Councilmember Kappa suggested delaying item #3. **Bartlett** agreed that another funding source might be possible. City Council has made it clear that the waterfront and Kellogg Lake were the highest priority.

It was moved by Councilmember Schreiber and seconded by Councilmember Kappa to adopt the Resolution authorizing the Mayor to sign an intergovernmental agreement with Metro for Local Share Component of the Open Spaces Bond Measure with the proviso that the final form be approved by the City Attorney. Motion passed unanimously.

RESOLUTION NO. 39-1995:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING THE MAYOR TO SIGN AN INTERGOVERNMENTAL AGREEMENT WITH METRO FOR LOCAL SHARE COMPONENT OF THE OPEN SPACES BOND MEASURE.

It was moved by Councilmember Kappa and seconded by Councilmember Farley to pursue project items #1 and #2. Motion passed unanimously.

Municipal Code Amendment, Chapter 2.35, City Records -- Ordinance

Bartlett presented the staff report in which the City Council was requested to consider an Ordinance amending Municipal Code, Chapter 2.35. The original Ordinance was very specific, and to allow for staff reassignments, the proposed Ordinance referred to the City Manager's designee.

Councilmember Kappa asked if there were funds to support this program. **Bartlett** said the Ordinance sets out rules and procedures.

It was moved by Councilmember Kappa and seconded by Councilmember Farley to read the Ordinance amending Municipal Code Section 2.35 for the first time by title only. Motion passed unanimously. The Ordinance was read for the first time by title only.

It was moved by Councilmember Kappa and seconded by Councilmember Farley to read the Ordinance amending Municipal Code Section 2.35 for the second time by title only. Motion passed unanimously. The Ordinance was read for the second time by title only.

It was moved by Councilmember Kappa and seconded by Councilmember Farley to adopt the Ordinance amending Municipal Code Section 2.35. Motion passed unanimously.

ORDINANCE NO. 1786:

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING MUNICIPAL CODE SECTION 2.35 AND REPEALING ORDINANCE 1663.

FOCUS and MPAC Representation

Mayor Lomnicki discussed the request from Lake Oswego Mayor Schlenker asking the City of Milwaukie to cast ballots for the Alternate to Metro Policy Advisory Committee (MPAC) representing Clackamas County Cities and FOCUS Steering Committee Representative representing Clackamas County. The nominee for the former was Jill Thorn, Mayor of West Linn; and Alice Schlenker for the latter.

Councilmember Schreiber asked if the FOCUS representative from the Cities of Clackamas County was being replaced. **Bartlett** said there were two representative positions. He added that the largest City in the County develops the ballot. FOCUS bylaws call for each member county to have representation.

Councilmember Kappa asked what was the point if the City was not a FOCUS member. **Bartlett** said completing the ballot would show support for Mayor Schlenker.

It was moved by Mayor Lomnicki and seconded by Councilmember Kappa to vote for Jill Thorn for MPAC Alternate from Clackamas County Cities and Alice Schlenker as FOCUS Steering Committee Representative from Clackamas County. Motion passed unanimously.

Senior Issues

Councilmember Farley said he was aware of an action on a national level that would have direct implication on senior programs, such as Meals on Wheels. He urged that Council look closely at the potential 7.2% shortfall.

Mayor Lomnicki said this should be discussed by the Parks District Board.

Councilmember Trotter agreed that the Parks District should look at this type of shortfall because there are budget line items for these programs.

Bartlett said this would be part of the slated cuts for the Older Americans Act. The National League of Cities will probably request letters of support soon.

CONSENT AGENDA

It was moved by Councilmember Farley and seconded by Councilmember Kappa to adopt the Consent Agenda which consisted of the City Council Minutes of August 15, 1995; Annual Waste Reduction Program Plan -- Resolution 40-1995; Fire Mutual Aid Agreement with City of Portland -- Resolution 41-1995; and Liquor License Application for the Country Basket, Inc. Motion passed unanimously.

Information

1. **Councilmember Kappa** discussed the upcoming County Gas Tax Measure. **Bartlett** said it is expected that language referring to IGAs will be eliminated from the final Ordinance.
2. **Bartlett** discussed Information Item J in which Helen Lottridge of DEQ asked for Advisory Panel volunteers. **Councilmember Kappa** asked if anyone on the Johnson Creek Coordination Committee Group would be interested in a position.
3. **Bartlett** discussed Information Item K regarding the Metro Study of the Boundary Commission and the upcoming meeting on September 11 at the Metro Annex.
4. **Bartlett** discussed SB 122 meetings and activities.

ADJOURNMENT

Mayor Lomnicki adjourned the meeting at 10:28 p.m.

Pat DuVal

Pat DuVal, Recorder/Secretary